

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	NAL/Acct. No. MB200741410184,
	)	MB200741410185
<b>Alacca Bible Conference, Inc.</b>	)	FRN: 0013815949, 0008935181
Licensee of	)	
FM Translator Station	)	Facility ID No. 734
K213BN, Orofino, Idaho	)	File No. BRFT-20050729CTY
	)	
and	)	
	)	
FM Translator Station	)	Facility ID No. 732
K215AB, Kamiah, Idaho	)	File No. BRFT-20050728ANE

**FORFEITURE ORDER**

**Adopted: March 15, 2010**

**Released: March 16, 2010**

By the Chief, Audio Division, Media Bureau:

**I. INTRODUCTION**

1. In this Forfeiture Order (“Order”), we issue a monetary forfeiture in the amount of five hundred dollars (\$500) to Alacca Bible Conference, Inc. (“Licensee”), licensee of FM Translator Stations K213BN, Orofino, Idaho, and K215AB, Kamiah, Idaho (collectively, “Stations”), for willfully violating Section 73.3539 of the Commission’s Rules (“Rules”), for its failure to timely file the Stations’ license renewal applications.<sup>1</sup>

**II. BACKGROUND**

2. On February 12, 2007, the Bureau issued two separate Notices of Apparent Liability for Forfeiture (“*NALs*”) in the amount of one thousand, five hundred dollars (\$1,500) each to Licensee for willfully violating Section 73.3539 of the Rules, based on the fact that it failed to timely file a renewal application for each of the Stations.<sup>2</sup> As noted in the *NALs*, Licensee’s renewal applications for the Stations’ license term were due on June 1, 2005, four months prior to the October 1, 2005, expiration date.<sup>3</sup> Licensee did not file the applications until July 29, 2005, and provided no explanation for the untimely filing of the renewal applications. In response to the *NALs*, Licensee submitted two letters (collectively, “Requests”) on March 5, 2007.

3. In its Requests, Licensee states that a cancellation of the forfeitures is warranted because: (1) it did not “willfully” violate the Rules; (2) its staff consists of unpaid volunteers who do not “have attorneys on retainer” to advise them; and (3) it is a “non-commercial, non profit” entity.

<sup>1</sup> 47 C.F.R. § 73.3539.

<sup>2</sup> *Alacca Bible Conference, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 2679 (2007); *Alacca Bible Conference*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 2683 (2007). The Commission granted the above-referenced license renewal applications on February 12, 2007.

<sup>3</sup> See 47 C.F.R. §§ 73.1020, 73.3539(a).

### III. DISCUSSION

4. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Act,<sup>4</sup> Section 1.80 of the Rules,<sup>5</sup> and the Commission's *Forfeiture Policy Statement*.<sup>6</sup> In assessing forfeitures, Section 503(b)(2)(E) of the Act requires that we take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.<sup>7</sup>

5. Licensee does not dispute that it failed to timely file its renewal applications, but states that this failure was unintentional. Specifically, Licensee asserts it was “not aware that [it] needed to apply for renewal four months before the license was to expire” and “received no communication from the [Commission] notifying [it] that this was the required procedure.”<sup>8</sup> As the Commission has held, however, violations resulting from inadvertent error or failure to become familiar with the FCC’s requirements are willful violations.<sup>9</sup> In the context of a forfeiture action, “willful” does not require a finding that the rule violation was intentional. Rather, the term “willful” means that the violator knew it was taking (or not taking) the action in question, irrespective of any intent to violate the Rules.<sup>10</sup>

6. Licensee next asserts that cancellation of the forfeiture is warranted because it is composed of a group of unpaid volunteers and does not keep attorneys on retainer. However, as we have previously stated, “[o]versight or failure to become acquainted with the FCC's requirements—due to a lack of attorney or otherwise—does not excuse a violation.”<sup>11</sup>

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<sup>4</sup> 47 U.S.C. § 503(b).

<sup>5</sup> 47 C.F.R. § 1.80.

<sup>6</sup> *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

<sup>7</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>8</sup> Requests at 1.

<sup>9</sup> *See Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4387 (1991), *recon. denied*, 7 FCC Rcd 3454 (1992) (“*Southern California*”) (stating that “inadvertence . . . is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance”); *Standard Communications Corp.*, Memorandum Opinion and Order, 1 FCC Rcd 358 (1986) (stating that “employee acts or omissions, such as clerical errors in failing to file required forms, do not excuse violations”). *See also Christian Radio Translator Association/Salmon, Inc.*, Forfeiture Order, 24 FCC Rcd 11288, 11289 (MB 2009) (rejecting licensee’s argument that its violation of Section 73.3539 was unintentional where it mistakenly assumed that it would receive a reminder of the filing date from the Commission).

<sup>10</sup> *See Five Star Parking d/b/a Five Star Taxi Dispatch*, Forfeiture Order, 23 FCC Rcd 2649 (EB 2008) (declining to reduce or cancel forfeiture for late-filed renewal based on licensee's administrative error); *Southern California*, 6 FCC Rcd at 4387; *see also Domtar Industries, Inc.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 13811, 13815 (EB 2006); *National Weather Networks, Inc.*, Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 3922, 3925 (EB 2006).

<sup>11</sup> *See Liability of Madison Communications, Inc., Athens, Alabama, for a Forfeiture*, Order, 8 FCC Rcd 1759, 1759 (1993) (“Oversight or failure to become acquainted with the FCC's requirements—due to a lack of attorney or otherwise—does not excuse a violation.”).

7. Finally, Licensee asserts that forfeiture cancellation is warranted because it operates the Stations on a “non-commercial, non-profit” basis,<sup>12</sup> and includes with its Requests documentation indicating its non-profit status. It is established Commission policy that there is no proposed forfeiture exemption or reduction based on licensee’s noncommercial status.<sup>13</sup> We therefore decline to reduce the forfeiture amount based on Licensee’s noncommercial status.

8. We have considered Licensee’s response to the *NALs* in light of the above statutory factors, our Rules, and the *Forfeiture Policy Statement*. We conclude that licensee willfully violated Section 73.3539 of the Rules. However, given the Commission’s recent decisions assessing forfeitures in the amount of \$250 against licensees of translator stations for violations of Section 73.3539 of the Rules, we will reduce the forfeiture amount against Alacca Bible Conference, Inc. to two hundred and fifty dollars (\$250) per station based on the Stations’ status as providers of secondary FM translator service.<sup>14</sup> Therefore, we find that a forfeiture in the total amount of five hundred dollars (\$500) is warranted.

#### IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.283 and 1.80 of the Commission’s Rules,<sup>15</sup> that Alacca Bible Conference, Inc., SHALL FORFEIT to the United States the sum of five hundred dollars (\$500) for willfully violating Section 73.3539 of the Commission’s Rules.

10. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Commission’s Rules within 30 days of the release of this Forfeiture Order. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.<sup>16</sup> Payment of the proposed forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced in the caption above. Payment by check or money order may be mailed to Federal Communications Commission, at P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank—Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank: TREAS NYC, BNF: FCC/ACV--27000001 and account number as expressed on the remittance instrument. If completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code).<sup>17</sup> Requests for payment of the full amount of the forfeiture under an installment plan should be sent to: Associate Managing Director-Financial Operations, Room 1-A625, 445 12th Street, S.W., Washington, D.C. 20554.<sup>18</sup>

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<sup>12</sup> Requests at 1.

<sup>13</sup> See, e.g., *Des Moines Independent Community School District*, Memorandum Opinion and Order, 24 FCC Rcd 3869, 3871 (MB 2009), citing *Bible Broadcasting Network, Inc.*, Forfeiture Order, 23 FCC Rcd 8743, 8745 (MB 2008) (rejecting licensee’s argument that its forfeiture should be cancelled or reduced because of its noncommercial educational status). See also *Lebanon Educational Broadcasting Foundation*, Memorandum Opinion and Order, 21 FCC Rcd 1442, 1446 (EB 2006) (“Where the Rule is violated, Section 1.80 provides that a monetary forfeiture may be imposed, and there is no exemption or reduction based on the noncommercial status of a station.”).

<sup>14</sup> See, e.g., *Valley Baptist Church and Christian School*, Forfeiture Order, 23 FCC Rcd 8740, 8742 (MB 2008) (reducing *sua sponte* forfeiture amount from \$1,500 to \$250 for translator station’s late renewal filing).

<sup>15</sup> 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.283, 1.80.

<sup>16</sup> 47 U.S.C. § 504(a).

<sup>17</sup> See 47 C.F.R. § 1.1914.

<sup>18</sup> *Id.*

11. IT IS FURTHER ORDERED that copies of this Forfeiture Order shall be sent by Certified Mail, Return Receipt Requested, to: Mr. Jack Dumars, Alacca Bible Conference, HCR 67, Box 40, Grangeville, Idaho 83530-9504.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle  
Chief, Audio Division  
Media Bureau